

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



January 10, 1989

ALL-COUNTY INFORMATION NOTICE NO. I-04-89

TO: ALL COUNTY WELFARE DEPARTMENTS
ALL COUNTY PROBATION DEPARTMENTS
ALL COUNTY COUNSELS

SUBJECT: 1988 CHAPTERED LEGISLATION RELATED TO THE CHILD
WELFARE SERVICES PROGRAM

The following information summarizes some issues related to the Child Welfare Services (CWS) Program which were addressed in bills enacted into law during 1988 and which become effective January 1, 1989, unless otherwise noted.

This summary is for general informational purposes only. It is in addition to the more detailed description of specific programmatic issues and implementation steps that have been or will be addressed in other individual All-County Letters (ACLs) or All-County Information Notices (ACINs) regarding certain recently enacted CWS legislation.

AB 558 (Hannigan), Chapter 105, Statutes of 1988

This legislation required the State Department of Social Services (SDSS) to select two Counties, in addition to Solano County, to participate in an innovative two-year pilot program geared towards avoiding or limiting the out-of-home placement of children who have experienced child abuse or neglect within the family.

On July 6, 1988, we issued an All County Welfare Directors letter soliciting County interest in the AB 558 pilot program. ACIN I-98-88 (dated September 30, 1988) announced that Napa and Alameda Counties had been selected to participate with Solano County in the pilot.

This was an urgency measure with an effective date of May 11, 1988. This legislation does not require new SDSS regulations.

AB 1241 (N. Waters), Chapter 39, Statutes of 1988

This legislation amends Penal Code Sections 11165.4, 11165.5 and 11165.6 to clarify that "child abuse" does not include an injury

caused by reasonable and necessary force used by a peace officer in the following situations:

- o To quell a disturbance threatening physical injury to persons or damage to property,
- o To prevent physical injury to persons or damage to property,
- o For purposes of self-defense,
- o To obtain possession of weapons or other dangerous objects within a child's control, or
- o To apprehend an escapee.

This legislation does not require new SDSS regulations.

AB 2412 (Filante), Chapter 1483, Statutes of 1988

The State Department of Education (SDE) currently administers various programs of privately-provided child care. The child care resource and referral programs established pursuant to these programs are required to provide specific services. This legislation authorizes the resource and referral programs also to provide short-time respite child care services to families identified and referred by child protective agencies and to other families as listed. By October 1, 1989, the SDE must report to the Legislature on the total number of children served under this provision and the number served who were referred by child protective agencies.

The Governor vetoed the \$250,000 appropriation contained in AB 2412.

This legislation does not require new SDSS regulations.

AB 2534 (Polanco), Chapter 1125, Statutes of 1988

This legislation does not impose a new program or higher level of service; it restates existing law in order to focus attention on court dependents and engender a renewed sense of commitment to meeting their mental health needs.

Assembly Bill 2534 restates the intent that specified services for dependent children are to be paid for by specified State departments, with mental health services to be paid for by the State Department of Mental Health (SDMH). When a court refers a dependent child to the County mental health director for assessment, existing Short-Doyle program requirements concerning access to and assessment of appropriate mental health treatment services apply. The assessment includes determining whether appropriate treatment is available through the minor's own resources, including a third-party payor.

This legislation requires SDMH to conduct a study concerning minors referred by the juvenile courts to the County mental health director for assessment and services. The study results, which are due to the Legislature by July 1, 1990, will include the number of referred children for whom mental health services could not be provided under the Short-Doyle program within six months of the assessment.

This legislation does not require new SDSS regulations.

AB 2854 (Kelley), Chapter 1166, Statutes of 1988

This legislation established, with the consent of the Riverside County Board of Supervisors, a foster parent training pilot program in that County. Except as specified in the bill, participation in the training will be a condition of licensure as a foster parent in Riverside County.

The bill provides for an evaluation of the pilot program and establishes criteria to measure its success. In consultation with Riverside County, SDSS shall provide the Legislature with an interim report on the pilot program by October 1, 1990 and a final report by October 1, 1991.

This legislation does not require new SDSS regulations.

AB 3871 (Bates), Chapter 1314, Statutes of 1988

The Office of Child Abuse Prevention, SDSS, establishes pilot projects for the research, prevention, identification and treatment of child abuse. These projects include the establishment of multidisciplinary family crisis teams.

This legislation specifies that a person who is trained and qualified to serve on a multidisciplinary team, whether or not the person is actually serving in that capacity, may be deemed by the team members to be part of the team. The person so deemed may then receive and disclose information relevant to a particular child abuse case as though he or she were a team member.

This legislation does not require new SDSS regulations.

AB 3959 (N. Waters), Chapter 898, Statutes of 1988

This legislation restores a 1986 clarification to Penal Code (PC) Section 11166.3 which was inadvertently deleted by a subsequently chaptered bill. That is, it clarifies that only in dependency cases is the County Welfare Department (CWD) required to recommend in writing to the District Attorney what action would be in the best interest of a PC Section 288 (lewd or lascivious acts with a minor under age 14) child abuse victim. Prior wording did not limit this requirement to dependency cases.

This legislation does not require new SDSS regulations.

AB 4445 (Vasconcellos), Chapter 723, Statutes of 1988

This legislation established an optional, State-assisted program of court-appointed special advocates (CASAs) for children who are involved in juvenile court dependency proceedings and in proceedings for the termination of parental rights. The Judicial Council is required to establish a planning and advisory group to develop CASA program guidelines and funding criteria.

The Governor vetoed the \$75,000 appropriation contained in AB 4445.

This legislation does not require new SDSS regulations.

AB 4585 (Polanco), Chapter 1580, Statutes of 1988

This legislation added the following provisions to the Child Abuse and Neglect Act:

- o Medical examiners and other persons who perform autopsies on children are required to report to the child protective agency if suspected child abuse is discovered during an autopsy.
- o Reports of child abuse and the information contained therein may be disclosed to coroners and medical examiners when they are conducting a postmortem examination of a child.
- o Each County may establish an interagency child death team and develop child autopsy protocol.
- o The Attorney General, along with the California Consortium of Child Abuse Councils, shall develop a protocol for the development and implementation of interagency child death teams for use by the Counties. The bill appropriates \$35,000 to the Department of Justice to develop the protocol.

This legislation does not require new SDSS regulations.

SB 470 (Royce), Chapter 195, Statutes of 1988

This legislation deleted the sunset provisions from the Foster Family Home and Small Family Home Insurance Fund. Under prior law, the Fund would have become inoperative on June 30, 1988 and would have been repealed on January 1, 1989; as amended by SB 470, the Fund no longer contains a termination date. This bill also extended the termination date for 11 pilot projects administered by the Office of Child Abuse Prevention, SDSS from January 1, 1989 to July 1, 1989.

A detailed description of the Foster Family Home and Small Family Home Insurance Fund can be found in ACL 86-102. ACIN I-117-88 (dated November 30, 1988) provided additional information regarding the SB 470 changes to the Fund.

This was an urgency measure with an effective date of June 16, 1988. This legislation does not require new SDSS regulations.

SB 510 (Seymour), Chapter 1066, Statutes of 1988

This legislation requires that when a child is living in the same eligible facility as his or her minor parent who receives AFDC-Foster Care, the rate paid on behalf of the parent shall include an amount for care and supervision of the child. Previously, such children were eligible for aid under the AFDC-Family Group program. Senate Bill 510 terminates their eligibility for AFDC-Family Group. Senate Bill 510 also addresses the contents of the written assessment developed by the CWS worker for the minor parent in these situations. Departmental regulations are being developed to require that the written assessment shall include identification of any special needs of the minor with regard to his or her role as a parent.

This was an urgency measure with an effective date of September 21, 1988. This legislation will be implemented with the promulgation of emergency regulations, which are now being finalized by the Foster Care Branch and Family and Children's Services Branch.

SB 1859 (Presley), Chapter 701, Statutes of 1988

Civil Code (CC) Section 306 was amended during 1987 by SB 243 (Chapter 1485, Statutes of 1987) to provide that a social worker can take a minor into custody without a warrant when the minor is determined to be in immediate danger of continued physical or sexual abuse. (The effective date of the SB 243 amendment is January 1, 1989.) This legislation removed the word "continued" from the above language.

Both SB 1859 and SB 1860 make a similar change to CC Section 305 regarding the removal of a minor by a peace officer. Since SB 1860 was chaptered last, the CC Section 305 language in SB 1860 supersedes that in SB 1859. Senate Bill 1859 also makes minor technical changes to CC Section 232 and WIC Section 363.

This was an urgency measure with an effective date of August 29, 1988. This legislation does not require new SDSS regulations.

SB 1860 (Presley), Chapter 1075, Statutes of 1988

Senate Bill 243 (Chapter 1485, Statutes of 1987) made extensive changes to juvenile court dependency criteria and procedures, as

well as adding statutes and procedures for the termination of parental rights. The provisions of SB 243 go into effect in three phases, with the second phase effective on January 1, 1989.

Senate Bill 1860 makes additional changes to the dependency and adoption procedures enacted by SB 243.

An ACIN is being prepared to provide detailed information regarding SB 1860 and the SB 243 provisions which are effective on January 1, 1989. At this point, we do not anticipate that this legislation will require new SDSS regulations.

SB 1957 (Rogers), Chapter 457, Statutes of 1988

This legislation requires the Judicial Council to prepare a pamphlet explaining the nature of guardianship of a minor and the rights, duties and obligations of a person serving as guardian of a minor. Copies of the pamphlet shall be distributed to the superior courts for use in guardianships established pursuant to WIC Section 366.25 and for other purposes as directed or permitted by the Judicial Council.

This legislation does not require new SDSS regulations.

SB 2076 (Alquist), Chapter 1236, Statutes of 1988

This legislation requires the SDSS to establish a pilot project to recruit foster parents for children two years of age and under who have tested positive for antibodies to HIV or who have been diagnosed as having AIDS. The bill also requires the pilot agency to provide training, education and support services to these foster parents.

An All County Welfare Directors letter was issued on December 6, 1988 to request tentative program plans from Counties wishing to be considered for this pilot. We will inform you as soon as the pilot County is selected.

This legislation does not require new SDSS regulations.

SB 2081 (Royce), Chapter 583, Statutes of 1988

A respite care services pilot project in Orange and San Diego Counties was enacted last year by SB 500 (Chapter 1351, Statutes of 1987). Senate Bill 500 required the SDSS, in conjunction with the two Counties, to report to the Legislature by December 1, 1989 on the effectiveness of the pilot program. This legislation extends the project's operation until July 1, 1991 and changes the due date for the required report to July 1, 1990.

The Governor vetoed the \$120,000 appropriation contained in SB 2081.

This was an urgency measure with an effective date of August 26, 1988. This legislation does not require new SDSS regulations.

SB 2086 (Presley), Chapter 722, Statutes of 1988

This legislation changes the frequency at which this Department must report to the Legislature on the operation and progress of the CWS Program. Commencing in 1989, the reporting requirement is changed from every year to every third year.

Senate Bill 2086 also makes various changes related to the State Children's Trust Fund.

This legislation does not require new SDSS regulations.

SB 2160 (Royce), Chapter 1142, Statutes of 1988

This legislation makes numerous changes which redefine and clarify the roles and responsibilities of Foster Family Agencies (FFAs) and the relationship between such agencies and CWDs with regard to foster care. Following are some of the major CWS-related changes enacted by SB 2160:

- o The definition of an FFA is amended to stipulate the use of such a facility as an alternative to a group home.
- o FFA use of a County-licensed foster family home is made contingent upon County approval.
- o New language clarifies that care, custody and control of the child remains with the placing agency. An FFA performs responsibilities for or on behalf of a child, but is not a placing agency.
- o Educational requirements are established for FFA social work personnel.
- o FFAs must supplement the existing community college training provided to their certified family homes.

This was an urgency measure with an effective date of September 22, 1988. An ACL is being prepared to provide additional information regarding SB 2160. New and revised Departmental regulations will be required as a result of this legislation.

SB 2569 (Russell), Chapter 1083, Statutes of 1988

When a peace officer or social worker takes a minor into temporary custody, the CWD is required to make a diligent effort to ensure regular telephone contact between the parent and the child. This legislation clarifies that the effort shall be diligent and reasonable, and shall be made on behalf of a child of any age. In addition, the initial telephone contact shall take place as soon as possible, but no later than five hours after the child is taken into custody.

Departmental regulations will be amended to reflect this legislation.

AIDS-RELATED BILLS

A number of bills enacted during 1988 concern Acquired Immune Deficiency Syndrome (AIDS) and AIDS-related issues. For example, AB 3255 (Chapter 1582, Statutes of 1988) addresses circumstances under which blood test results may be released without written consent. Senate Bill 2788 (Chapter 1216, Statutes of 1988) concerns the disclosure by physicians of positive test results to sexual partners of the tested person or those with whom the person has shared needles. Senate Bill 2847 (Chapter 1581, Statutes of 1988) amends provisions governing AIDS testing, the disclosure of test results and the granting of consent for testing. Although these bills have no direct programmatic impact, they are of interest since AIDS is a growing concern in the administration of the CWS Program.

Copies of the above-described chaptered bills may be obtained from the California Legislative Bill Room, State Capitol Building, Room B-32, Sacramento, California 95814. If you have any questions regarding the topics addressed in these statutes as they relate to the delivery of child welfare services, please contact Ms. Ingrid Petty, Family and Children's Services Policy Bureau, at (916) 323-3411 or ATSS 473-3411.


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cc: County Welfare Directors Association